

**WATER ALLOCATION  
PROGRAM ADVISORY COMMITTEE (WAPAC)  
Meeting Proceedings**

**Thursday, January 8, 2004  
9:00 AM-12:00 Noon**

**1. Opening Remarks**

Mr. Juan Mariscal welcomed participants to the meeting and wished everyone a Happy New Year, noting that there are two handouts to support today's meeting:

- 1) Handout #1: WAPAC Recommendations
- 2) Handout #2: WAPAC Meeting 1/8/04

He began the meeting by noting that there were a number of questions during the last meeting about how the "21 Priority Recommendations" were developed. He stated today's meeting would consist of two parts and include a water allocation program retrospective. At the conclusion of the retrospective, the remainder of the meeting will be a discussion on the remaining 11 recommendations from the "21" Priority Recommendations. He reported that during the last meeting ten recommendations were discussed with consensus reached on 8 recommendations, members were polled on one recommendation with the numbers recorded, and there was clearly no consensus on the final recommendation.

Mr. Mariscal asked members to keep in mind that there will be a Strategic Planning Workshop January 29<sup>th</sup> to provide information on the "WAPAC Recommendations" to the Water Resources Board (WRB) and WAPAC members will receive notice soon on the day-long meeting. He noted that the draft agenda includes a morning presentation by the chairs of each of the committees to talk about the recommendations that came out of the committee and provide detail to WRB members with an afternoon discussion on the information provided. This format will prepare the WRB to make decisions at the February Board meeting.

**2. Business**

Mr. Mariscal presented a brief overview on the legislation, history and mission of the Water Allocation Advisory Committee (WAPAC). He drew attention to the banners that were posted at the front of the room. He noted that these banners present a summary of the WRB mandates that are driven by the legislation. He briefly reviewed the legislation, declarations, and findings on RI water resources (including both surface and groundwater, and the need to gather information, data, and facts in order to manage the resource in cooperation among state, local and private partners). He noted that the WAPAC Statement of Purpose, Overall Mission, and Guiding Principles have guided the work of members

Mr. Mariscal referred members to Handout #2 referencing Section III (Objective: Develop a Water Management System). This section identifies four major objectives that further define the work and key components of a water management system. He noted that Ms. Alicia Good provided this framework from information obtained from the State of Maine. Data collection, planning, management and program evaluation are all basic components of any well-defined system and are especially relevant to WAPAC. The “21 Priority” recommendations were inserted into the proposed framework, and, in a sense, is a road map for determining the next steps. He noted program evaluation and assessment activities are maintained as an ongoing activity when using this framework. Members were asked to refer to the next page where the recommendations have been sorted (once again) into this framework. Mr. Mariscal concluded by stating over 150 people have been involved in working on developing the water allocation program and framework for Rhode Island. He stated that the goal is to create a simplified and understandable framework in order to put a water allocation program in place based on consensus and best management practices.

Ms. Alicia Good noted that she, too, had worked on creating a framework using the “21 recommendations” (p. 6). She asked member to refer to the “Draft conceptual workplan elements outline (Handout #2, p. 6). She explained this framework attempted to put the 21 recommendations into a simplified context that now includes data collection (8 recommendations), planning (12 recommendations), management (2 recommendations), and program evaluation. Her workplan also took into account **existing uses** and **new uses** as well as a separate section on **drought management**. She noted the key element of the workplan is the management of the water allocation process. She also stated that this framework allows for identifying where there are gaps that will then allow further workplan development to cover unidentified areas.

Ms. Kathy Crawley further explained that several WAPAC members (WRB staff, Liz, Alicia) had met as a result of the “logjam” during the last meeting in an attempt to establish a framework to simplify the discussion on the remaining recommendations. She noted that questions generated during the December 18, 2003 meeting identified need to provide a clearer framework and context for discussions. Ms. Crawley stated the framework provided by Ms. Good makes it possible to drop additional elements into the relevant sections as each element is identified. She noted the discussion on water allocation is not limited to conflict resolution but is also about mitigation of management activities to prevent conflict. Using this framework, the WRB will be able to make decision about the items that have been identified, and make a decision about a process to further define the management, critical path, or workplan (we’ve used several terms during the last several months). She noted that it is important to move forward in a process that will provide a structured information session at the January 29<sup>th</sup> Strategic Planning Workshop, and the subsequent development of Phase II. She stated appreciation of Alicia’s commitment and work with the Public Drinking Water Protection Committee, and as an attendee at WRB meetings. Ms. Crawley then thanked all members for all of the work that has been done to support the WAPAC mission.

Ms. Eugenia Marks noted that Ms. Good has identified a critical element between the state and local government with the local comprehensive plans as local accountability will be critical to water allocation decision-making. Ms. Crawley agreed noting that staff has been actively engaged with Statewide Planning as the State Land Use Plan is and in putting together a consolidated water element for the State Guide Plan. She noted that Ms. Good has stated the case well when she spoke about choices of working within the existing paradigm and looking at ways to improve the decision-making process so that at all levels we do a better job planning and implementing the public trust including the design of a water resources and allocation program. The design of a program should occur at the planning and proactive level whether it is at a local planning board, a zoning board or at the statewide level. The “how” we go about doing that will be another process and could include shifting the burden of responsibility for making a determination to a state agency or a central authority, or working with the existing paradigm and doing a better job incorporating that into the comprehensive community plans into the local zoning ordinances, into the subdivision review regulations. It could also include how do we as a state take a larger technical assistance role making that information available so that it is useable and accurate at a local level. It was the opinion of Ms. Crawley that Ms. Good’s framework would be a good model for moving forward. After brief discussion, Ms. Crawley noted that the “how” the state manages takes the discussion right back to the discussion on the paradigm. The question then becomes should we manage by doing a much better job taking the water use and availability studies and provide a better job in technical assistance by making that data available and useable. If the decision is to identify a technical review team to manage the data, then we are beginning to enter the “how.” Mr. Mariscal summarized the discussion by stating that today’s work is to establish a framework for what we “want” to do but we cannot focus on “how” as this is under the purview of the WRB. He reminded member that in fact, these recommendations may not be implemented by the WRB, but rather DOH DEM as it is not yet possible to know what the WRB recommendations will be or what other state actions may occur. He stated the next step is to submit the WAPAC recommendations to the WRB.

Ms. Sandra Whitehouse asked for clarification of the “monitoring/ evaluation “ element noting that programs frequently are not good at evaluation if someone is not assigned to “do” an evaluation. She stated that evaluation must happen, and perhaps should be a separate element rather than an ongoing activity. She recommended that performance evaluation be incorporated into the framework so that the questions can be raised about how to change the program if changes are needed. Incorporation of evaluation at the startup of a program may require FTEs or changes in elements or regulations and this is something that needs to be included. Ms. Judy Doerner noted that it is hard to establish numerical goals related to the outcomes. In her opinion, having identified criteria to evaluate is the hardest part in evaluating a system.

Mr. Walter Coombs, referencing RIGL 46-15(7), stated he is having difficulty understanding how the WRB will manage the waters of the state when the reality is land use decisions are made at the local level, and the issue of water is not usually addressed. He found it difficult to see how the strategy addresses this issue, and wondered how the

proposed framework work? Mr. Mariscal responded that all WAPAC members will be invited to attend the January 29<sup>th</sup> Strategic Planning Workshop to present the recommendations to the WRB. Ms. Kendra Beaver noted that perhaps the WRB need some type of approval over local use decisions so that water allocation regulations and a system could be developed prior to implementing the system. Ms. Liz Scott commented that local land use decisions and water withdrawals are complicated issues, and there is a clear need for close coordination among state agencies. She stated it will be important to prevent creating another hurdle at the local level to obtain permits but it is important that agencies work out a possible permitting program, and there may be areas for improvement by attempting to streamline as possible. I would recommend that this occur at the state level but is supportive of the process. She recommended that the permitting process occur at the state level using a central authority. Mr. Coombs noted the approach adopted should be comprehensive, consistent, and systematic. Ms. Scott agreed, asking how the WRB will be able to assure that water is equitably decided without having a state process. It was her opinion that a uniform system across the state based on water availability is needed.

After further discussion, Mr. Mariscal referenced members to the “21 priority” recommendations, and the need to reach consensus on the remaining recommendations stating he hoped that members could agree on giving direction to the WRB. He noted that water availability is related to watersheds that are all different and not dependent on state boundaries that would mean that a regional approach must be taken. Ms. Doerner commented that this will mean that outcomes for each watershed will need to be identified which will require providing technical assistance to communities for local management planning. Ms. Crawley agreed noting that streamflow, safe yield, and out-of-basin transfer are all similar elements that will need to be included in water availability. Mr. Mariscal agreed, and stated that these 6 elements relating to recommendations #5, 17, 18, 19, 20, & 21 have been discussed, and with no further discussion are ready for polling to reach consensus. He noted that following a ten-minute break starting at 10:30 am, members would be polled for approval to submit these six WAPAC recommendations to the WRB.

Mr. Mariscal reconvened the meeting at 10:40 am, polling members for consensus on the six recommendations for consensus. After brief discussion consensus was reached on the six recommendations including recommendations #14 and #15. Ms. Kendra Beaver proposed that the WRB immediately develop regulations that data be submitted, and a working group be established composed of state and local experts to prepare said regulations to accomplish the overall WAPAC mission. Mr. O’Brien stated concern that a technical and legally defended database needs to be established first, with standards following, and then regulations so that the burden is not placed on local government. Ms. Beaver responded that this does not conflict with her proposed language as her proposal is about establishing the framework not the application of the framework. Ms. Whitehouse requested a language addition to recommendation #18 to include that this permit process be coordinated with existing permitting systems.

Ms. Crawley recommended the language to “consider” as there may be other things that could come in as there may be other methods that come in, for example, the pre-application review process that could be a couple of different things at the state or the local level, so as we get into the detail about how we want to address water availability analysis and particular kinds of projects whether they are subdivisions or water withdrawal we are going to have to figure out the process, and we may not have figured out all of the options yet. I think the charge is more than about regulations but is a management scheme and framework.

Mr. Mariscal polled members on the question on immediacy – meaning January 2005 for a voluntary system in place, and a mandatory system in place by January 2007. He asked if the issues of immediacy and regulatory recommendations in the previous recommendation have been sufficiently addressed. He also asked how many members understand that these concerns were addressed in previous recommendations?

After further discussion on the language and timeframe, the proposal was accepted with modification to read:

**Establish a working group of state and local entities, to draft a water use management framework (a system to address the issues) , and draft regulations by January 2005 to address the overall mission (RIGL 46.15.7) and guiding principals of the WAPAC with consideration of those priority recommendations outlined in the “21 Priority” recommendations.**

Members were polled and consensus was reached on the timeline and framework so that a report including these items will be submitted to the WRB January 2005. Ms. Whitehouse recommended that the timeframe and regulations be aligned with the 2005-2007 dates for voluntary and mandatory reporting with regulations set in place by 2007.

Ms. Alicia Good recommended the following language: Establish a working group of state and local entities to draft the water use management framework and regulations within 6 months to address the overall mission of the RIGL citation and guiding principles of the WAPAC with consideration of those priority recommendations outlined in 5, 14, 15, 17, 18, 19, and 21.

Ms. Crawley drew members attention to the guiding principles in Handout #2, noting that the principals are taken from the statute except for one bullet that reads “optimizing water use and recycling.” She stated that Ms. Doerner is correct that there is one bullet that is a water conservation element was not taken from the statute. She recommended that the language of the “overall mission” does comes directly from the statute. A statutory citation and the guiding principles could be included in parentheses for proper reference of all of the elements. Mr. John O’Brien asked if the standards are legally defensible. Ms. Crawley and Ms. Good both stated that there are the U.S. Fish and Wildlife standards but RI specific standards would be more relevant (i.e. streamflow standards). In addition, there are federal and other state regulations that can be used in a legally defensible position.

Ms. Whitehouse requested that priority recommendation #1: Outreach Elements: Education and Outreach” be discussed and recommended to move forward to the WRB. Mr. Mariscal agreed and asked Ms. Whitehouse to present a brief overview on this recommendation. She noted that education is needed for legislators and the general public. Mr. Mariscal noted that this recommended included a financial element of \$50,000 to support an education effort. There being no discussion members were polled and consensus reached to move this recommendation forward to the WRB.

Members next discussed the Financial Elements priority recommendations: #2, 13, & 16. Mr. Mariscal noted that a funding plan should be submitted for all recommendations, and these particular recommendations may not cover all of the funding needed to implement the “21 Priority” recommendations. He identified recommendation #16, stating it may drive all of the other recommendations. Ms. Jean Bondarevski agreed noting that the Rates Committee submitted this recommendation to support their recommendations. Ms. Whitehouse suggested that the wording “restricted receipts” be removed from the language but Ms. Bondarevski stated that the committee felt strongly that the funds were needed to support the mission of the WAPAC. The committee specifically did not want the money to be deposited in the General Fund. Mr. Marsical summarized the discussion by noting that recommendation #16 was the lead recommendation while recommendations #2 and 16 are examples.

Ms. Scott noted the RI MUTAP has been hard to implement and she endorses the idea of the conservation efforts on state properties but in reality state agencies have not had the funds needed for an initial investment to make the program work. Therefore, she recommended, that some good project sites in the private sector be identified as examples to push forward good examples of conservation efforts of large users. During discussion it was noted that the state should set the good example, and that many viable industries have already implemented cost-saving conservation measures. It was agreed to add “private entities” in the recommendation. Mr. Mariscal polled members and consensus was reached with the main recommendation to read:

**Develop multi-year funding plan to implement all recommendations with consideration of #2 and 13 as specific examples of financial needs.**

### **3. Summary**

Ms. Crawley reviewed the language members had adopted for the recommendations that will be forwarded to the WRB. She stated her intent to develop a concise document that synthesizes what decisions have been made throughout this process, and this document will be forwarded to the WRB. Mr. Mariscal, noting that two minutes remained, referred back to the concern of Ms. Whitehouse regarding program evaluation. He asked for recommendations to which Ms. MsGreavy responded that the evaluation component has been included in the WAPAC plan. Ms. Good recommended that the framework include an evaluation component. Members agreed that this was a good idea.

In other business, Ms. Alicia Good reported that the development of a watershed area utilizing stream flow gauges was ongoing, and the committee planned to continue their work. She asked that the ongoing nature of this committee be reflected in the final recommendations submitted to the WRB. Her request will be included in the final recommendations.

Mr. Mariscal thanked everyone for their participation. The meeting was adjourned at 12 P.M.

Respectfully Submitted,

Beverly O'Keefe, Supervising Planner